

JONES DAY

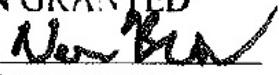
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March 6, 2020

VIA ECF AND E-MAIL

Hon. Vernon S. Broderick
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 9/25/2020

Re: *Powell v. Ocwen et al - 18-cv-01951-VSB (SDA)*

Dear Judge Broderick:

Defendant Wells Fargo Bank, N.A., together with Defendants Ocwen Financial Corporation, Ocwen Loan Servicing, LLC, Ocwen Mortgage Servicing, Inc. (the “Ocwen Defendants”) (collectively, the “Ocwen and Wells Fargo Defendants”) submit this letter in the above-captioned action to respectfully request that the following documents submitted in support of the Ocwen and Wells Fargo Defendants’ Joint Motion for Summary Judgment be filed under seal pursuant to Your Honor’s Individual Rules & Practices in Civil Cases Rule 5(B).

Documents Referencing Exhibits Designated “Confidential” To Be Filed With Redactions Of References To Confidential Material:

The Ocwen and Wells Fargo Defendants’ respectfully request permission to file the below-listed materials submitted in connection with their Joint Motion for Summary Judgment with redactions to references to documents designated as “Confidential” pursuant to the Protective Order entered in the above-captioned action. (ECF 163). The below-listed documents are attached with proposed redactions in yellow highlighting, and hard copies of these materials will be delivered to chambers.

- Memorandum of Law in Support of the Joint Motion for Summary Judgment of Defendants Ocwen and Wells Fargo;
- Local Civil Rule 56.1 Statement of Material Facts of Defendants Ocwen and Wells Fargo.

Exhibits Designated “Confidential” To Be Filed Under Seal In Their Entirety:

In addition, the Ocwen and Wells Fargo Defendants respectfully request permission to file the below-listed exhibits under seal in their entirety. The exhibits listed below have been previously designated by parties and third-parties as “Confidential” during discovery. With respect to Exhibits 29, 74, and 76, the documents contain proprietary and confidential business information belonging to Ocwen, which reveal sensitive business procedures and strategies, the disclosure of which would provide an unfair advantage to competitors. Further, Exhibit 29 contains nonpublic personal borrower information, which Ocwen seeks to seal consistent with the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801(a).

The remainder of the exhibits listed below were produced by Plaintiffs or third parties and designated as “Confidential” under the Protective Order in this case. Until the Ocwen and Wells Fargo Defendants understand the basis for Plaintiffs’ and third parties’ designations of these documents as “Confidential,” we take no position on the confidentiality of these documents.

- **Exhibit 27:** Transcript of the Deposition of Plaintiff Robert O’Toole, taken on November 22, 2019.
- **Exhibit 28:** Transcript of the Deposition of Daniel Ryan, as a corporate representative of the United Food and Commercial Workers Midwest Pension Fund (“UFCW”) pursuant to Fed. R. Civ. P. 30(b)(6), taken on November 22, 2019.
- **Exhibit 29:** Transcript of the Deposition of Jay Williams pursuant to Fed. R. Civ. P. 30(b)(6), taken on December 4, 2019.
- **Exhibit 37:** UFCW’s Account Statement for the for the period 12/1/2006 through 11/30/2007, as produced with redactions, and bearing Bates stamp UFCW_000125.
- **Exhibit 38:** UFCW’s Account Statement for the for the period 12/1/2007 through 11/30/2008, as produced with redactions, and bearing Bates stamp UFCW_000131.
- **Exhibit 39:** UFCW’s Account Statement for the for the period 12/1/2008 through 11/30/2009, as produced with redactions, and bearing Bates stamp UFCW_000137.
- **Exhibit 40:** UFCW’s Account Statement for the for the period 12/1/2009 through 11/30/2010, as produced with redactions, and bearing Bates stamp UFCW_000142.

- **Exhibit 41**: UFCW's Account Statement for the for the period 12/1/2010 through 11/30/2011, as produced with redactions, and bearing Bates stamp UFCW_000146.
- **Exhibit 42**: UFCW's Account Statement for the for the period 12/1/2011 through 11/30/2012, as produced with redactions, and bearing Bates stamp UFCW_000151.
- **Exhibit 43**: Cited excerpts of the UFCW's Monthly Account Statements for the following months and years, produced at the Bates stamps below, and submitted in a single exhibit as Exhibit 43-1 through Exhibit 43-65:

MONTH/YEAR	BATES STAMP	MONTH/YEAR	BATES STAMP
January 2013	UFCW_003905	November 2015	UFCW_009857
February 2013	UFCW_002752	December 2015	UFCW_002250
March 2013	UFCW_006607	January 2016	UFCW_004352
April 2013	UFCW_000223	February 2016	UFCW_003205
May 2013	UFCW_007583	March 2016	UFCW_007061
June 2013	UFCW_006009	April 2016	UFCW_000496
July 2013	UFCW_004693	May 2016	UFCW_008019
August 2013	UFCW_001165	June 2016	UFCW_005667
September 2013	UFCW_011169	July 2016	UFCW_005309
October 2013	UFCW_010349	August 2016	UFCW_001584
November 2013	UFCW_008553	September 2016	UFCW_011632
December 2013	UFCW_001951	October 2016	UFCW_010828
January 2014	UFCW_004033	November 2016	UFCW_010002
February 2014	UFCW_002886	December 2016	UFCW_002407
March 2014	UFCW_006743	January 2017	UFCW_004509
April 2014	UFCW_000349	February 2017	UFCW_003354
May 2014	UFCW_007724	March 2017	UFCW_007225
June 2014	UFCW_006147	April 2017	UFCW_000666
July 2014	UFCW_005011	May 2017	UFCW_008191
August 2014	UFCW_001300	July 2017	UFCW_004836
September 2014	UFCW_011327	August 2017	UFCW_001752
October 2014	UFCW_010508	September 2017	UFCW_011797
December 2014	UFCW_002111	October 2017	UFCW_010981
January 2015	UFCW_004197	November 2017	UFCW_010175
February 2015	UFCW_003053	December 2017	UFCW_002582
March 2015	UFCW_006907	January 2018	UFCW_003717
April 2015	UFCW_001017	February 2018	UFCW_003524
May 2015	UFCW_007878	March 2018	UFCW_007400

June 2015	UFCW_006297	April 2018	UFCW_000834
July 2015	UFCW_005171	May 2018	UFCW_008363
August 2015	UFCW_001442	June 2018	UFCW_005828
September 2015	UFCW_011476	July 2018	UFCW_005471
October 2015	UFCW_010671		

- **Exhibit 44**: UFCW Trade Blotter for the Fiscal Year ending November 30, 2012, bearing Bates stamp UFCW_012674. Exhibit 44 has been submitted in native form.
- **Exhibit 45**: Transcript of the Deposition of Jim Kaplan, as a corporate representative of National Investment Services (“NIS”) pursuant to Fed. R. Civ. P. 30(b)(6) and 45, taken on November 20, 2019.
- **Exhibit 47**: Investment Manager Agreement between the Trustees of the UFCW Fund and NIS, dated November 27, 2000, and the UFCW Statement of Investment Policy, produced together and bearing Bates stamp NIS000001.
- **Exhibit 48**: Investment Consulting Services Agreement between the Marco Consulting Group and the UFCW Fund, effective as of January 1, 2011, bearing Bates stamp SEGAL_00001.
- **Exhibit 49**: UFCW Trade Blotter for the Fiscal Year ending November 30, 2013, bearing Bates stamp UFCW_000210. Exhibit 49 has been submitted in native form.
- **Exhibit 69**: State Street Bank Production of Documents to Wells Fargo, produced pursuant to third party subpoena, dated as of December 2019, bearing Bates stamp SSBT0000001. Exhibit 69 has been submitted in native form.
- **Exhibit 70**: Metlife Production of Documents to Plaintiffs, produced pursuant to third party subpoena, and forwarded to Defendants on July 19, 2019.
- **Exhibit 71**: Bank of New York Mellon Production of Documents to Ocwen, produced pursuant to third party subpoena on July 16, 2019, bearing Bates stamp BNYM000001.
- **Exhibit 72**: Deutsche Bank Production of Documents to Plaintiffs, produced pursuant to third party subpoena, and forwarded to Defendants on July 8, 2019, bearing Bates stamp DBNTC POWELL 000001.

- **Exhibit 73**: DTC Production of Documents to Plaintiffs, produced pursuant to third party subpoena, and forwarded to Defendants on August 20, 2019, bearing Bates stamp DTCC – 1.
- **Exhibit 74**: A printed copy of Ocwen Financial Corporation’s Investor Rules, originally produced in native form with Bates stamp OCWEN_POWELL_001588716.
- **Exhibit 76**: Ocwen Financial Corporation’s Foreclosure Portfolio Process Training Manual, bearing Bates stamp OCWEN_POWELL_001437710.
- **Exhibit 78**: UFCW Trade Blotter for the Fiscal Year ending November 30, 2015, bearing Bates stamp UFCW_000212. Exhibit 78 has been submitted in native form.

The Ocwen and Wells Fargo Defendants respectfully request that these exhibits, and references thereto in the Ocwen and Wells Fargo Defendants’ Joint Motion for Summary Judgment and accompanying documents, be filed under seal.

A redacted version of the above-referenced materials will be filed on the public ECF docket, with unredacted materials filed via ECF with access limited to Plaintiffs and the Ocwen and Wells Fargo Defendants. Once the Court decides this application to file under seal, the Ocwen and Wells Fargo Defendants will update their filings of the above-referenced materials on the public ECF docket in accordance with Your Honor’s Order.

Respectfully submitted,

/s/ Howard F. Sidman
Howard F. Sidman

cc: Counsel of Record (via ECF and email)